

Friday News Brief

Preferred Benefits Services Agency, Inc.



In this issue:

Affordability Percentages Will Decrease for 2018	1
Have You Been Filing Form 5500? FAQs on What You Need to Know	2
Have You Been Filing Form 5500? FAQs on What You Need to Know	3
Hire to Fit Your Company Culture	4
Hire to Fit Your Company Culture	5
ThinkHR Ask the Expert— Having Defibrillators on Site	6

Affordability Percentages Will Decrease for 2018

On May 5th, the IRS released [Revenue Procedure 2017-36](#) to index the contribution percentages in 2018 for purposes of determining affordability of an employer’s plan under the Affordable Care Act. For plan years beginning in 2018, employer-sponsored coverage will be considered affordable if the employee’s required contribution for self-only coverage does not exceed:

- **9.56 percent** of the employee’s household income for the year, for purposes of both the pay or play rules and premium tax credit eligibility; and
- **8.05 percent** of the employee’s household income for the year, for purposes of an individual mandate exemption (adjusted under separate guidance).

These updated affordability percentages are effective for taxable years and plan years beginning Jan. 1, 2018. **This is the first time since these rules were implemented that the affordability contribution percentages have been reduced.** As a result, some employers may need to reduce their employee contributions for 2018 to meet the adjusted percentage.

Overview of the Affordability Requirement

Under the ACA, the affordability of an employer’s plan may be assessed in the following three contexts:

- The **employer shared responsibility penalty** for applicable large employers (also known as the pay or play rules or employer mandate);
- An exemption from the **individual mandate** tax penalty for individuals who fail to obtain health coverage; and
- The **premium tax credit** for low-income individuals to purchase health coverage through an Exchange.

Until the American Health Care Act replaces the ACA, we advise continuing to follow the laws established under the Affordable Care Act.

Preferred Benefits Services

611 S. Sandusky St.

P.O. Box 868

Delaware, OH 43015

740.363.6028

800.558.5658

740.363.5292 f

info@prefben.com

Contribution Percentage	2016	2017	2018
Up to 133% FPL	2.03%	2.04%	2.01%
133-150% FPL	3.05—4.07%	3.06—4.08%	3.02—4.03%
150-200% FPL	4.07—6.41%	4.08—6.43%	4.03—6.34%
200-250% FPL	6.41—8.18%	6.43—8.21%	6.34-8.10%
250-300% FPL	8.18—9.66%	8.21—9.69%	8.10—9.56%
300-400% FPL	9.66%	9.69%	9.56%



Have You Been Filing Your Form 5500? —FAQs on What You Need to Know

Each year, employee benefit plan administrators are generally required to file a return/report regarding the plan's financial condition, investments and operations. The annual reporting obligation is generally satisfied by filing the Form 5500 Annual Return/Report of Employee Benefit Plan or Form 5500-SF Short Form Annual Return/Report of Small Employee Benefit Plan, plus any required schedules and attachments. The Department of Labor (DOL), IRS and the Pension Benefit Guaranty Corporation (PBGC) jointly developed the Form 5500 series to consolidate the main annual reporting requirements for employee benefit plans.

The Form 5500 series is intended to protect the rights and benefits of plan participants and beneficiaries by assuring that:

- Employee benefit plans are operated and managed in accordance with certain prescribed standards.
- Employee benefit plan participants and beneficiaries are provided with or have access to sufficient plan information.

In addition, the Form 5500 series is an important compliance, research and disclosure tool for the DOL. It is also a source of information and data for use by other federal agencies, Congress and the private sector in assessing employee benefit, tax and economic trends and policies.

An employee benefit plan's 5500 or 5500-SF must accurately reflect the plan's characteristics and operations for the reporting period. An employee benefit plan administrator's reporting obligations under the Form 5500 or 5500-SF will vary based on the type and size of benefit plan involved. For example, the administrator of a small, insured health plan will typically have significantly fewer reporting obligations than the administrator of a large pension plan.

Frequently Asked Questions About the Form 5500 Series

Am I required to file a Form 5500 or 5500-SF for my employee benefit plan? Administrators of ERISA employee benefit plans are required to file an annual Form 5500 or 5500-SF, unless

a reporting exemption applies. More specifically, if you are the administrator of a profit sharing plan, stock bonus plan, money purchase plan, 401(k) plan, defined benefit plan, certain 403(b) plans or a welfare benefit plan, generally you must file a Form 5500 or 5500-SF for the plan each year.

Certain welfare benefit plans are exempt from all or part of the Form 5500 series reporting requirements. For example, there is an exemption from Form 5500 series reporting for small welfare benefit plans (fewer than 100 participants at the beginning of the plan year) that are unfunded, fully insured or a combination of unfunded and fully insured.

Which welfare plans must file a Form 5500 or 5500-SF?

Must file:

- Large funded plans
- Large unfunded plans
- Large insured plans
- Large combination unfunded/insured plans
- Small funded plans

Exempt from filing:

- Small unfunded plans
- Small insured plans
- Small combination unfunded/insured plans
- Unfunded or insured plans for certain select employees (management or highly compensated employees)

Small Plans

On July 21, 2016, a proposed rule was published regarding the Form 5500 filing requirements. Significantly, the proposed rule would eliminate the current filing exemption for small group health plans, both insured and unfunded. Also, a new Schedule J would be used to report detailed information about group health plan operations and compliance. The new rule was proposed to apply for plan years beginning on or after Jan.1, 2019. However, it is unclear at this point whether the Trump administration will move forward with the proposed changes.

What is a small plan? Small plans are those with fewer than 100 covered participants at the beginning of the plan year.



"The Form 5500 series is intended to protect the rights and benefits..."



Have You Been Filing Your Form 5500? - FAQs on What You Need to Know

Who are covered participants? Participants are covered by the plan on the earlier of: (1) the date the plan says participation begins; (2) the date the individual became eligible to receive a benefit; or (3) the date the individual makes a voluntary or mandatory payment. Participants may include employees and former employees (for example, COBRA beneficiaries).

Covered dependents are NOT counted as participants when determining if a plan qualifies for the small plan exemption.

What is an insured plan? Insured plans are those where benefits are paid solely through insurance policies. Premiums must be paid directly by the employer from its general assets. Alternatively, premiums may be paid partly from an employer's general assets and partly by participant contributions, which the employer forwards no later than three months after receipt.

Am I eligible to file a Form 5500-SF for my employee benefit plan? Eligible small employee benefit plan filers may use the Form 5500-SF instead of the regular Form 5500. Form 5500-SF is a simplified two-page annual reporting form. To be eligible to use Form 5500-SF, an employee benefit plan must:

- Have fewer than 100 participants at the beginning of the plan year
- Meet the conditions for exemption from the plan audit requirement
- Have all of its assets invested in certain secure investments with a readily determinable fair value
- Hold no employer securities
- Not be a multiemployer plan

Do I electronically file a Form 5500 or 5500-SF for my employee benefit plan? Effective Jan. 1, 2010, all Forms 5500 and 5500-SF, including required schedules and attachments, must be filed electronically using the DOL's EFAST2 electronic filing system. Administrators cannot file paper annual reports by mail or other delivery service.

Plan filers must obtain EFAST2 electronic credentials to sign and/or submit the Form 5500 or 5500-SF, or to prepare a return in IFILE. In

addition to the online resources noted above, plan filers may obtain assistance through the toll-free EFAST2 Help Line at 1-866-463-3278.

What is the Deadline for filing Form 5500 or 5500-SF? Form 5500 or 5500-SF must generally be filed by the last day of the seventh month following the end of the plan year, unless an extension applies. **For calendar year plans, the deadline is normally July 31 of the following year.**

How can I obtain an extension for filing Form 5500 or 5500-SF? A plan administrator may request a one-time extension of two and one-half months by filing IRS Form 5558 by the unextended due date of the Form 5500 or 5500-SF. If the Form 5558 is filed on or before the normal due date of the Form 5500 or 5500-SF, the extension is automatically granted.

Who do I contact if I have questions about completing Form 5500 or 5500-SF? For answers to your filing questions, please contact your tax advisor or the DOL's Employee Benefits Security Administration (EBSA) at 1-866-463-3278.

What are the penalties for not complying with the Form 5500 or 5500-SF? The DOL and IRS can assess penalties for noncompliance with the annual reporting requirements, including submitting incomplete Forms 5500 or 5500-SF or not filing Forms 5500 or 5500-SF by the due date. For example, the DOL has the authority under ERISA to assess penalties of up to \$2,097 per day for each day an administrator fails or refuses to file a complete Form 5500 or 5500-SF. The DOL typically sends a Notice of Intent to Assess a Penalty to notify filers of a proposed DOL penalty due to a late or incomplete annual return.

Helpful Resources

- [DOL Webpage on the Form 5500 Series](#)
- [DOL Webpage Dedicated To EFAST2](#)
- [DOL's Form 5500 and 5500-SF Filing Tips](#)



"A plan administrator may request a one-time extension..."



Hire to Fit Your Company Culture



"Companies looking to hire individuals that fit with their culture must first identify and understand it."



Poor hiring decisions can be extremely costly for your company, in terms of business interruption, wasted recruiting and training resources, lower employee morale and more. You may realize that an individual is not a good fit, or a new employee may choose to leave if the job doesn't match his or her expectations. In both circumstances, many of these separations are due to the fact that the hired individuals did not fit the company culture and therefore lacked productivity, creativity and/or morale.

Culture is the unifying element that holds everyone in an organization together. Unlike an established mission statement, culture encompasses the written and unwritten behavioral norms and expectations of those within the company. Culture can set one company apart from others, and it can include the value of work life balance issues, the way the company is organized, the extent to which leaders follow through on mission statements and many other factors.

Companies looking to hire individuals that fit with their culture must first identify and understand it. For instance, if your organization recognizes personal achievements and awards individuals for a job well done, then a team-oriented employee might not be the best fit. But if your company values the total team performance versus the contributions of just one individual, then someone looking for personal recognition might not be as satisfied working for your company. Ultimately, if the fit is not right between the company and individual, then both will lose interest and the relationship will probably fail.

Importance of a Good Fit

Finding employees who are a good fit for the organization produces the following

benefits:

- Improved employee retention
- Enhanced employee performance because most individuals at the company share similar values and aspirations. When people share a common purpose and similar attitude, it can encourage people to perform better.
- Improved alignment from the top to the bottom, and employees may view leadership more positively.

Screening to Find a Cultural Fit

Developing a screening process that integrates prescreening based on your company culture can be accomplished with the following steps:

1. Ask employees at various levels of the organization how they see your company culture. Then, identify the similarities that arise among individuals—motivations, values, core competencies, etc.
 - When you can identify what makes the organization successful, you will know what to look for during the selection process. This technique is also helpful in avoiding hiring discrimination allegations because you have defined the key characteristics of your culture, which help you logically and fairly justify your hiring decisions.
2. Create a brand to describe your organization to potential employees.
 - Depict your culture accurately so that candidates can filter themselves in or out based on how you describe the company. If they do not see themselves fitting into your culture, they may not even apply.
3. Have candidates complete an online assessment as part of the recruitment process to screen potential



Hire to Fit Your Company Culture

candidates based on their qualifications, personality and other factors. Use properly validated assessments that meet legal and professional standards.

4. Ask questions about traits that you cannot or do not want to train someone how to do (being self-motivated, possessing integrity, etc.). Questions should determine if candidates have values and competencies that match with the company's culture.
 - Ask behavior-related questions and then rate open-ended answers on a scale.
 - Ask for examples of situations in which candidates faced dilemmas or problems and successfully overcame them.
5. Role-play during the interview process to observe candidates in action. Or, allow them to try out the position for a day to see if it seems like a good fit for them (and for you). This step would come after all interviewing was complete, and reference checks and resume verification checks are also done.
6. Know the laws applicable to hiring.
7. Rate metrics for measuring cultural fit by determining cost-per-hire, time-to-fill and quality-of-hire data.
8. Make sure management is trained on how to properly interview for behaviors.
9. Maintain accurate records of all your hiring decisions. During an audit or discrimination claim, you will need to produce valid justification for your decisions.
10. Human resources should stay on top

of monitoring, learning and studying the culture of the organization, and then design policies that align with the culture. HR should constantly be asking if the organization is truly what it claims, if it needs to modify the culture to be more competitive and if it is remaining compliant with all hiring laws.

Don't Become Drained by Culture

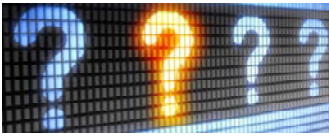
Although finding a cultural match is beneficial, sometimes desperately seeking individuals who align with the company culture can backfire. Here's why:

- If the company promotes itself differently than how the culture really is, then prospective employees will be lured in under false pretenses. If employees realize that they've been sold on a company inaccurately, they will probably leave shortly after being hired and will lack the morale needed to succeed while they are still there.
- People who are too similar to one another tend to lack the zest needed to be proactive. If your entire company is full of mediocre performers, no one will stand out to motivate others to work harder. Along these same lines, groupthink may set in.
- Emphasizing a company culture can become a legal exposure with regard to compliance audits and discrimination accusations. If you do not hire someone based on the fact that they "did not fit in with your culture" but have no quantitative proof to back this up, your organization may be held liable for discrimination or failure to comply with equal hiring provisions.



"Questions should determine if candidates have values and competencies..."





Ask The Expert



Question: What risk issues should we consider if our employees use an automated external defibrillator (AED) while on the job if they are not trained? And what are the implications of them not using it?

Answer: From a general HR standpoint, if an employer has an AED in the workplace, but has not provided the appropriate employee training, the employer may incur risk where an untrained person attempts to use the device but does so incorrectly and causes harm (Good Samaritan laws may or may not protect the individual who uses the device).

According to the Occupational Safety and Health Administration (OSHA), AEDs are an important lifesaving technology and may have a role to play in treating workplace cardiac arrest (see OSHA resources [here](#) and [here](#)). [Workers can be trained](#) to:

- Recognize sudden cardiac arrest and notify EMS personnel.
- Perform cardiopulmonary resuscitation (CPR).
- Provide early defibrillation with an AED.
- Care for the victim until emergency medical personnel arrive.

OSHA also provides a helpful first aid program [best practices guide](#).

It is unclear what the risk is if the device is onsite but the employer fails to use it. Some states have enacted laws related to AEDs in the workplace, and there may be other usage and training laws that a safety expert could outline for installation (including registering the AEDs with local emergency response agencies, as well as Good Samaritan laws).

We recommend reviewing this question with your risk, liability, and workers' compensation insurance broker and legal counsel, as they likely have better insight into this topic and its risks.



OSHA Delays Electronic Deadline Reporting

Just over a month before impacted employers were required to begin electronic reporting of illness and injury data from their 2016 Form 3000A, the federal Occupational Safety and Health Administration (OSHA) announced that it intends to propose an extension to the July 1, 2017 compliance date. This extension affects employers with 250 or more employees at one establishment or 20-249 employees at one establishment in designated. The intention of this electronic reporting was to provide OSHA with individual company safety information in an electronic format that the agency would then post publicly, with the intent of shaming employers with poor safety records. OSHA did not provide a reason for the delay.

This announcement affects electronic reporting only. As of now, all other injury and illness tracking and reporting requirements and deadlines remain.

